

An Act

ENROLLED SENATE
BILL NO. 1413

By: Montgomery of the Senate

and

Sneed of the House

An Act relating to mental health parity; amending 36 O.S. 2021, Section 6060.11, which relates to mental health coverage provisions; modifying contents to be reported in analyses; updating statutory references to comply with federal law; requiring analysis findings include certain provisions; requiring Insurance Commissioner issue guidance and standardized reporting materials; updating statutory references; updating statutory language; and providing an effective date.

SUBJECT: Mental health parity

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2021, Section 6060.11, is amended to read as follows:

Section 6060.11. A. Subject to the limitations set forth in this section and Sections 6060.12 and 6060.13 of this title, any health benefit plan that is offered, issued, or renewed in this state on or after ~~the effective date of this act~~ January 1, 2000, shall provide benefits for treatment of mental health and substance use disorders.

B. 1. Benefits for mental health and substance use disorders shall be equal to benefits for treatment of and shall be subject to the same preauthorization and utilization review mechanisms and other terms and conditions as all other physical diseases and disorders including, but not limited to:

- a. coverage of inpatient hospital services for either twenty-six (26) days or the limit for other covered illnesses, whichever is greater,
- b. coverage of outpatient services,
- c. coverage of medication,
- d. maximum lifetime benefits,
- e. copayments,
- f. coverage of home health visits,
- g. individual and family deductibles, and
- h. coinsurance.

2. Treatment limitations applicable to mental health or substance use disorder benefits shall be no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan. There shall be no separate treatment limitations that are applicable only with respect to mental health or substance abuse disorder benefits.

C. A health benefit plan shall not impose a nonquantitative treatment limitation with respect to mental health and substance use disorders in any classification of benefits unless, under the terms of the health benefit plan as written and in operation, any processes, strategies, evidentiary standards or other factors used in applying the nonquantitative treatment limitation to mental health disorders in the classification are comparable to and applied no more stringently than to medical and surgical benefits in the same classification.

D. All health benefit plans must meet the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and federal guidance or regulations issued under these acts including 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3), 42 U.S.C. 300gg-26(a), 29 U.S.C. 1185a(a), and 26 U.S.C. 9812.

E. Beginning on or after ~~the effective date of this act~~ January 1, 2000, each insurer that offers, issues or renews any individual or group health benefit plan providing mental health or substance use disorder benefits shall submit an annual report to the Insurance Commissioner on or before April 1 of each year that contains the following:

1. A description of the process used to develop or select the medical necessity criteria for mental health and substance use disorder benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits;

2. Identification of all nonquantitative treatment limitations applied to both mental health and substance use disorder benefits and medical and surgical benefits within each classification of benefits; and

3. The results of an analysis that demonstrates that for the medical necessity criteria described in paragraph 1 of this subsection and for each nonquantitative treatment limitation identified in paragraph 2 of this subsection, as written and in operation, the processes, strategies, evidentiary standards or other factors used in applying the medical necessity criteria and each nonquantitative treatment limitation to mental health and substance use disorder benefits within each classification of benefits are comparable to and are applied no more stringently than to medical and surgical benefits in the same classification of benefits. At a minimum, the results of the analysis shall:

- a. identify and clearly define the factors and terms used to determine that a nonquantitative treatment limitation will apply to a benefit ~~including factors that were considered but rejected~~,
- b. identify and clearly define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each nonquantitative treatment limitation,
- c. provide the detailed, written, and reasoned comparative analyses including the results of the analyses performed to determine that the processes and

strategies used to design each nonquantitative treatment limitation, as written, and the as written processes and strategies used to apply the nonquantitative treatment limitation to mental health and substance use disorder benefits are comparable to and applied no more stringently than the processes and strategies used to design each nonquantitative treatment limitation, as written, and the as written processes and strategies used to apply the nonquantitative treatment limitation to medical and surgical benefits,

- d. provide the detailed, written, and reasoned comparative analyses including the results of the analyses performed to determine that the processes and strategies used to apply each nonquantitative treatment limitation, in operation, for mental health and substance use disorder benefits are comparable to and applied no more stringently than the processes or strategies used to apply each nonquantitative treatment limitation for medical and surgical benefits in the same classification of benefits, and
- e. disclose the specific findings and conclusions reached by the insurer that the results of the analyses required by this subsection indicate ~~that~~ whether the insurer is in compliance with this section and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and its implementing and related regulations including 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3), 42 U.S.C. 300gg-26(a), 29 U.S.C. 1185a(a), and 26 U.S.C. 9812.

F. The findings and conclusions shall include sufficient detail to fully explain such findings including methodologies for the analyses, detailed descriptions of each treatment limitation for mental health and substance use disorder benefits compared to each treatment limitation for medical and surgical benefits, and detailed descriptions of all criteria involved for approving mental health and substance use disorder benefits as compared to the criteria involved for approving medical and surgical benefits.

G. The Commissioner shall implement and enforce any applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and federal guidance or regulations issued under these acts including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3), 42 U.S.C. 300gg-26(a), 29 U.S.C. 1185a(a), and 26 U.S.C. 9812.

H. The Commissioner shall issue guidance and standardized reporting templates to ensure compliance with the provisions of this section. Guidance shall include examples of non-quantitative treatment limitations as identified by the Centers for Medicare and Medicaid Services, the Department of Labor, and the Employee Benefits Security Administration.

~~G. I.~~ No later than December 31, 2021, and by December 31 of each year thereafter, the Commissioner shall make available to the public the reports submitted by insurers, as required in subsection E of this section, during the most recent annual cycle; ~~provided, however, that any information that is confidential or a trade secret shall be redacted.~~

1. The Commissioner shall identify insurers that have failed in whole or in part to comply with the full extent of reporting required in this section and shall make a reasonable attempt to obtain missing reports or information by June 1 of the following year.

2. The reports submitted by insurers and the identification by the Commissioner of noncompliant insurers shall be made available to the public by posting on the Internet website of the Insurance Department. Any information that is confidential or a trade secret shall be redacted prior to the public posting.

~~H. J.~~ The Commissioner ~~shall~~ may promulgate rules pursuant to the provisions of this section and any provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, that relate to the business of insurance.

SECTION 2. This act shall become effective November 1, 2022.

Passed the Senate the 12th day of May, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____